

Issued in Washington, DC, on November 7, 2011.

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Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 713X)]

CSX Transportation, Inc.— Abandonment Exemption—in Monroe County, AL

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 1.5-mile rail line on its Southern Region, Atlanta Division, Southern Alabama Subdivision, between mileposts ORA 676.27 and ORA 677.79 at the end of the track, in Hybart, Monroe County, AL. The line traverses United States Postal Service Zip Code 36481.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 10, 2011, unless stayed pending reconsideration. Petitions to stay that do not involve environmental

issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 21, 2011. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 30, 2011, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 15, 2011. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1-(800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by November 10, 2012, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: November 4, 2011.

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2(f)(25).

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35559]

Saratoga and North Creek Railway, LLC—Operation Exemption—Tahawus Line

Saratoga and North Creek Railway, LLC (Saratoga),¹ a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate an approximately 29.71-mile line of railroad, known as the Tahawus Line. Saratoga states that the Tahawus Line currently is private track owned by NL Industries, Inc. (NL), an industrial concern which is selling the line to Saratoga in the very near future.² The rail line extends between the existing connection with Saratoga at milepost NC 0.0 at North Creek, N.Y., and its terminus at milepost NC 29.71 at Newcomb. Saratoga intends to provide common carrier rail service over the subject line connecting to its existing trackage at North Creek and extending to its connection with CP at Saratoga Springs.

Saratoga certifies that as a result of this transaction its projected annual

¹ Saratoga is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc. (Permian), which in turn is owned by Iowa Pacific Holdings, LLC (IPH). IPH and Permian formed Saratoga for the purpose of operating the entire Tahawus Line between Newcomb, N.Y., on the north and Saratoga Springs, N.Y., on the south, interchanging traffic with the Delaware & Hudson Railway Company, Inc. d/b/a Canadian Pacific (CP) at Saratoga Springs. In 2 previous proceedings, the Board authorized Saratoga to operate between Saratoga Springs and North Creek. See *Saratoga & N. Creek Ry.—Acquis. & Operation Exemption—Del. & Hudson Ry.*, Docket No. FD 35500 (STB served June 1, 2011) and *Saratoga & N. Creek Ry., LLC—Operation Exemption—Warren Cnty., N.Y.*, Docket No. FD 35500 (Sub-No. 1) (STB served June 1, 2011).

² Saratoga states that the subject trackage is exempt from Board regulation and has never been operated in common carrier service and therefore it does not need any Board authority to acquire this trackage as such property is outside the Board's jurisdiction. Saratoga cites *B. Willis, C.P.A., Inc.—Petition for Declaratory Order*, FD No. 34013 (STB served Oct. 3, 2001) (*B. Willis*), *aff'd sub nom. B. Willis, C.P.A., Inc. v. STB*, 51 Fed Appx. 321 (D.C. Cir. 2002) in support of this proposition. Saratoga states that it has executed an agreement to acquire the line from NL and that it anticipates consummating the acquisition before the exemption in this proceeding becomes effective.